

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GUSTAV KLOSZEWSKI,	:	
	:	
Petitioner,	:	<u>ORDER</u>
	:	
-against-	:	20 Civ. 3998 (AKH)
	:	16 Cr. 200 (AKH)
UNITED STATES OF AMERICA,	:	
	:	
Respondent.	:	
	:	
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ALVIN K. HELLERSTEIN, U.S.D.J.:

Petitioner Gustav Kloszewski filed a petition pursuant to 28 U.S.C. § 2255 to vacate his conviction for conspiracy to traffic in firearms, in violation of 18 U.S.C. § 371; firearms trafficking, in violation of 18 U.S.C. §§ 922(a)(1)(A) and 924(a)(1)(D); Hobbs Act robbery conspiracy, in violation of 18 U.S.C. § 1951; and conspiracy to distribute and possess with intent to distribute controlled substances, in violation of 21 U.S.C. §§ 841(b)(1)(A) and 846. Petitioner argues that he received ineffective assistance of counsel because his trial counsel, Patrick Joyce, advised him to reject a plea agreement and failed to question potentially exculpatory witnesses.

Prior to ordering further briefing or ruling on the petition, the Court seeks a response from Mr. Joyce. “The attorney-client privilege is implicitly waived when the defendant asserts a claim of ineffective assistance of counsel.” *Mendivelso v. United States*, 507 F. Supp. 2d 331, 339 & n.3 (S.D.N.Y. 2007). By June 26, 2020, Mr. Joyce shall provide a sworn declaration responding to the factual assertions underlying Petitioner’s claims of ineffective assistance of counsel. Mr. Joyce need not recite the factual and procedural history of the case

but instead should focus his declaration on the particular facts relevant to the petition.

SO ORDERED.

Dated: June 5, 2020
New York, New York

/s/ Alvin K. Hellerstein
ALVIN K. HELLERSTEIN
United States District Judge